

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Michael Suplee,

Respondent.

Case No. 15-88

License No. 1011145

Order Regarding Proposed  
Decision

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing. A hearing took place before Administrative Law Judge Margaret LaMarche on March 7, 2016. The Respondent appeared and was represented by counsel. Judge LaMarche issued a proposed decision on April 6, 2016. The proposed decision was served upon the Respondent and the Board.

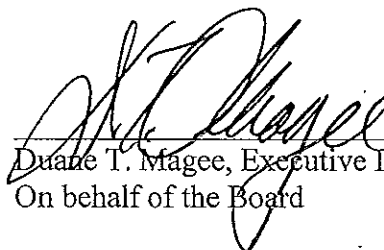
At a telephonic meeting on April 20, 2016, the Board moved to initiate review of the proposed decision to examine the appropriateness of the proposed sanction. A briefing schedule was issued on April 28, 2016, and the Respondent, through counsel, submitted a brief for the Board's review.

At its regular meeting on June 17, 2016, the Board voted to accept the proposed decision with the following modification: in addition to the existing language under the "ORDER" heading on Page 18, the Board adds the following sentence at the end of the section: "IT IS FURTHER ORDERED that the respondent is REPRIMANDED."

**ORDER**

**THEREFORE**, the Board accepts the Proposed Decision in the matter as the Board's final ruling, with the addition of a reprimand.

Dated this 17<sup>th</sup> day of June, 2016.

  
Duane T. Magee, Executive Director  
On behalf of the Board

Copies to:

Michael Suplee (first-class mail and restricted certified mail)  
RESPONDENT

Becky Knutson (electronic mail)  
ATTORNEY FOR RESPONDENT

Julie Bussanmas (electronic mail)  
ATTORNEY FOR STATE

IOWA BOARD OF EDUCATIONAL EXAMINERS

RECEIVED  
EXECUTIVE DIRECTOR  
BOARD OF EDUCATIONAL EXAMINERS  
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IN THE MATTER OF:	)	CASE NO. 15-88
	)	DIA NO. 15BEE031
MICHAEL D. SUPLEE	)	
	)	PROPOSED DECISION
RESPONDENT	)	

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STATEMENT OF THE CASE

On October 14, 2015, the Iowa Board of Educational Examiners (Board) found probable cause to file a Notice of Hearing and Statement of Charges charging Respondent Michael Suplee (Respondent) with three counts:

Count I: Commission of or conviction for a criminal offense as defined by Iowa law related to teaching or coaching performance, in violation of 282 IAC 25.3(1)"b"(2);

Count II: Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student, in violation of 282 IAC 25.3(1)"e"(4); and

Count III: Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee, in violation of 282 IAC 25.3(1)"e"(5).

The hearing was held before the undersigned administrative law judge on March 7, 2016. Assistant Attorney General Renner Walker represented the state of Iowa. Respondent Michael Suplee was represented by attorney Becky S. Knutson.

THE RECORD

The record includes the testimony of Dr. Brandon Eighmy; Jordan Nelson; Matt Moore; Michael Suplee; State Exhibits 1-11 and 13-35;<sup>1</sup> and Respondent Exhibits

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<sup>1</sup> State Exhibit 12 was withdrawn and State Exhibit 36 was excluded for lack of foundation and demonstrated relevance.

A-E. The record also includes seven (7) Final Board Orders/Settlement Agreements that were submitted by Respondent as relevant legal precedent.

### FINDINGS OF FACT

*Respondent's Educational and Professional Background.* In May 2013, Respondent graduated from Central College with a Bachelor of Arts Degree in History. On May 20, 2013, the Board issued Respondent a Substitute Authorization (Folder #1011145), which is due to expire on May 20, 2016. In August 2013, Respondent started substitute teaching with the Oskaloosa and Prairie City-Monroe School Districts. Respondent testified that he substitute taught approximately 7 days for Oskaloosa and 2-3 weeks for Prairie City-Monroe. Respondent requests the opportunity to renew his substitute teaching authorization. (State Exhibit 4; Respondent Exhibit E; Respondent testimony)

After completing his bachelor's degree, Respondent enrolled at Simpson College to pursue a Master of Arts Degree in Education (Social Studies, Special Education) with the goal of obtaining a teaching license. Respondent did not have time to continue substitute teaching while enrolled in his graduate program. In 2014, Respondent completed 80+ hours of field experience in secondary and special education at Indianola Middle School and at Roosevelt High School in Des Moines. In January 2015, Respondent started his first student teaching assignment (Social Studies, grades 9-12) at Pleasantville High School. (Respondent testimony; Respondent Exhibit E)

Respondent's second student teaching assignment was with the Carlisle School District, where he student taught Special Education at the high school level from March 10 through May 1, 2015. Respondent had approximately 20-25 special education students in his classes at Carlisle, and he also co-taught classes that had 120-150 students. No complaints were filed against Respondent before he completed this student teaching assignment on May 1, 2015. Respondent received a satisfactory evaluation for his student teaching at Carlisle. (Respondent, Eighmy testimony; State Exhibits 11, 16)

*Complaint Filed by Carlisle Community School District and Investigation.* Dr. Brandon Eighmy is the Director of Human Resources & School Services for the Carlisle Community School District. On May 21, 2015, Dr. Eighmy filed a complaint with the Board. The complaint alleged that on or about May 6, 2015, Respondent violated the standards of professional ethics and practices when he was involved in inappropriate text messaging with a female student and when

he was arrested for providing alcohol to a minor and for contributing to the delinquency of a minor. (State Exhibit 9; Eighth testimony)

During his investigation of the complaint, Board Investigator Jim McNellis received written correspondence from the Carlisle School District and from Respondent's attorney. Mr. McNellis also obtained a copy of the Carlisle Police Department's Incident Report dated May 6, 2015, as well as records pertaining to Respondent's arrest, criminal charges, and guilty plea to Contributing to the Delinquency of a Minor. (State Exhibits 10-19)

*Report of Inappropriate Relationship with DE.* DE was a special education student in one of Respondent's classes while Respondent was a student teacher at Carlisle High School from March 10-May 1, 2015. At the time relevant to this proposed decision, DE was 14 years old. On May 6, 2015, DE had a conversation with a group of special education students in her study hall concerning her interactions with Respondent on May 5, 2015. Two of the students (JF and KG) went to the school office to report what DE had told them during this conversation. JF, KG, and DE were all interviewed by Carlisle's Dean of Students, Jordan Nelson. (Nelson testimony; Exhibit 24)

During his interview, JF reported that DE had told her fellow students that Respondent had contacted her by "Snapchat," and that they had exchanged messages back and forth. DE also told the students that she had snuck out of the house "last night" to spend time with Respondent and that she got home between 1:00 and 2:00 a.m. DE told them that Respondent had picked her up at the Carlisle pool and then took her to his house in Norwalk. DE also told them that Respondent tried to take a picture of her, but she told him no. DE did not want the students to tell anyone what she had told them. Jordan Nelson took notes during JF's interview, and afterward JF reviewed and signed Nelson's notes. (State Exhibit 24; Nelson testimony)

KG was also interviewed and provided a signed written statement. According to KG, DE told him that Respondent contacted her by Snapchat messages, picked her up "last night" and took her to his house in Norwalk, and tried to take pictures of her, but she covered her face because she didn't want him to. (State Exhibit 26; Nelson testimony)

Jordan Nelson also interviewed DE on May 6, 2015, and DE provided a written signed statement. DE told Nelson that her contacts with Respondent had started several days earlier when she started receiving some Snapchat messages from an

unknown person who called her "beautiful." DE blocked the person who sent this message because she did not know who it was and the person did not identify himself. On May 5, 2015, DE received another Snapchat message but this time the sender identified himself as her "former student teacher." When DE asked if it was Mr. Suplee, Respondent answered "don't say my name here." According to DE, Respondent told her that they should "hang out," that she refused at first, but that Respondent said "come on, please" so she "finally said ok." Respondent asked DE for her address, but she refused to give it to him and told him to pick her up at the Carlisle pool. (Nelson testimony; State Exhibit 25)

DE also told Nelson that Respondent picked her up, drove her to his house, and kept trying to take pictures of her. DE reported that she said no and covered her face, but Respondent took one photo of her, which he refused to delete. DE further reported that Respondent got up to get a drink of some sort of vodka and asked DE if she wanted any. DE reported that although she said "no," Respondent fixed her one anyway. Respondent told her that it was good and she should take a sip. DE reported that she took a sip and then told Respondent that she did not want it. DE reported that she and Respondent then played video games. DE asked to go home but Respondent wanted her to keep playing. DE finally convinced Respondent to take her home and he dropped her off at the pool between 1:00 and 2:00 a.m. (State Exhibit 25; Nelson testimony)

At the time of her interview, DE showed Jordan Nelson her phone, and it still had some of the Snapchat messages that she exchanged with Respondent. Nelson testified that he saw a lot of messages of a "personal nature" that were not appropriate messages for a teacher to send to a student. Before contacting the police, Nelson reviewed about 20 Snapchat messages, including the messages that Respondent sent about picking DE up and taking her home. What stood out to Nelson was that this occurred very late at night, that DE did not want to go, and that Respondent had to convince her how he would pick her up and take her home without her parents finding out. As Dean of Students, Nelson had prior interactions with DE. He considered her to be a "good kid" but naïve and someone who believed a lot of the things that people told her. Nelson did not know anything about DE's social life outside of school. After speaking to DE, Nelson contacted Dr. Eighmy, and he also contacted DE's mother and the local police. (Nelson testimony)

On May 8, 2015, Jordan Nelson spoke to two other special education students, KR and TN, about interactions that they had with Respondent when he was student teaching. KR and TN both provided signed written statements for

Nelson. KR reported that Respondent talked to him a lot about girls, that Respondent looked at a picture of KR's girlfriend, and that Respondent tried to get KR to send his girlfriend an inappropriate Snapchat message. KR also reported that Respondent asked him if he had exchanged Snapchat messages with DE. (State Exhibit 27; Nelson testimony)

TN told Nelson that about three weeks earlier, Respondent had picked up TN's phone and started going through her pictures. Respondent then told TN that he was going to go through her messages, and she told him "don't" and tried to get it back from him. Respondent asked TN "why" and asked if she had a naked picture of herself on her phone. When TN told him "no," Respondent told TN that he was just joking, and he returned her phone to her. TN also reported that she and Respondent didn't talk unless she told him about personal "stuff" going on in her life. (State Exhibit 28; Nelson testimony).

*Criminal Investigation, Criminal Charges, and Guilty Plea.* Carlisle Police Detective Matt Moore went to Carlisle High School on May 6, 2015 and spoke to Jordan Nelson and to DE. Detective Moore prepared an Incident Report, which includes a detailed narrative of DE's statements to him. Those statements were consistent with the statements that DE made to Jordan Nelson but also included some additional details about her interactions with Respondent. (Moore testimony; State Exhibit 16)

DE told Detective Moore that she had been contacted on Snapchat by a user (Michael.Loss) who she did not recognize. After DE blocked this user, another user added her on Snapchat and told her that he would identify himself if she sent a picture of herself. DE refused and blocked the user. The user "Michael\_S09" then added DE on Snapchat. When DE asked Michael\_S09 who he was, he responded that he was "one of her student teachers. When DE asked if he was "Mr. Suplee," he responded "don't say my name on here." Respondent asked DE to come over to his house, and she was reluctant at first but later agreed to hang out with him. When Respondent asked DE for her address, she told him that she did not want to give out her address and that she would meet him at the Carlisle Aquatic Center. (Moore testimony; State Exhibit 16)

DE told Detective Moore that she snuck out of the house at approximately 11:30 p.m. on May 5, 2015 and met Respondent at the aquatic center. Respondent then drove her to his residence in Norwalk. When they got to his residence, Respondent tried to take a picture of DE to send to a friend. DE put her hands in front of her face, and Respondent pulled her hands down in order to get a

picture of her. DE also told Moore that Respondent asked her if she wanted a drink and she said no, but Respondent insisted that she have one. DE reported that Respondent mixed a drink for both of them, which she believed was vodka mixed with Sprite or 7-Up and possibly root beer. DE took a sip and she described the drink as very strong and tasting like gasoline. DE put the drink down and started playing video games. She asked Respondent to take her home, and he drove her back to Carlisle and dropped her off at the aquatic center. DE told Moore that the next day she told a friend at school about going to Respondent's house, and the friend told the school administrator. DE also told Moore that Respondent had been sending her Snapchat messages telling her not to tell anyone and also telling her that he would get in trouble if she told. DE told Moore that Respondent continued to send her messages on Snapchat after her mother took her phone. (Moore testimony; State Exhibit 16)

On May 8, 2015, DE's mother told Detective Moore that Respondent had sent a message to DE stating that he was going to pick her up at Carlisle High School and talk with her. DE's mother voluntarily turned DE's phone over to Detective Moore. Moore reviewed and photographed the Snapchat messages on DE's phone, which were consistent with what DE had told Moore. Moore read the messages arranging for Respondent to pick up DE at the pool, as well as the messages from Respondent warning DE not to tell anyone about what happened and telling her to delete their messages. Respondent called DE "beautiful" in some of his messages to her. (Moore testimony; State Exhibits 16, 22, 23)

Respondent was arrested on May 8, 2015 and was taken to the Carlisle Police Department for questioning. Detective Moore told Respondent that he had DE's phone with the conversations between them. Respondent asked for an attorney and refused to speak to the police at that time. Respondent was charged with Contributing to the Delinquency of a Minor and with Providing Alcohol to Persons Under Legal Age. (Moore testimony; State Exhibits 16-19)

On July 17, 2015, Respondent entered a guilty plea to Contributing to the Delinquency of a Minor, in violation of Iowa Code section 709A.1(3). Respondent admitted that he permitted a minor to violate the city of Carlisle's curfew ordinance. Respondent was granted a deferred judgment and was placed on supervised probation for a period of one year. The court entered a one-year No Contact Order between Respondent and DE. Respondent was required to pay a civil penalty of \$65.00, court costs, and probation fees. Respondent was also required to complete an Ethics class through the Iowa State Education Association or Area Education Association. In exchange for

Respondent's guilty plea, the second charge of Supplying Alcohol to a Person Under the Age of 21 was dismissed. (State Exhibits 14, 15; Respondent Exhibit A; Respondent testimony)

*Actions by Simpson College:* On May 8, 2015, the chairperson of Simpson College's Education Department (Dr. Barb Ramos) sent Respondent a number of text messages informing him that he needed to come in and speak to her right away. Respondent testified that he was extremely scared, nervous, and panicked when he received these text messages, and he assumed it was related to DE. Respondent called a couple of law firms about possible legal representation before speaking to Ramos on May 9th. Respondent admits that lied to Ramos during this first meeting and told her that nothing happened with DE and he would never take a student to his home. (Respondent testimony; Respondent Exhibit D)

On July 21, 2015, Simpson College administrators called Respondent in for another meeting and informed him that the college would not be recommending him for licensure as a teacher and would be seeking to expel him from his master's program. (Respondent testimony; Respondent Exhibit D)

On August 5, 2015, the Senior Vice President and Academic Dean for Simpson College notified Respondent in writing of the college's final decision not to recommend him for licensure as a teacher. The letter notes that Respondent was dishonest with Dr. Ramos on May 9, 2015. The letter further notes that while Respondent pled guilty to contributing to the delinquency of a minor and acknowledged that what he did was inappropriate, he continued to assert that his interactions with [DE] did not constitute an ethical violation. (Respondent Exhibit D)

Simpson College has given Respondent the opportunity to ask for reconsideration after he complies with the following conditions:

- provides proof of his satisfactory completion of the terms of probation;
- provides proof of satisfactory completion of any and all requirements imposed by the Board (BOEE) as a result of its investigation into this matter. The college informed Respondent that he must not withdraw his substitute license or take any other action that would cause the BOEE not to process the complaint which is the subject of their pending investigation; and



- authors a self-reflective paper after completing any requirements imposed by the BOEE and as a result of his probation, in which he reflects again on his actions and their application to Standard 10e and demonstrates to the satisfaction of the Department that he has met Standard 10e.

(Respondent Exhibit D; Respondent testimony)

*Respondent's Testimony and Further Evidence at Hearing:* In his testimony at hearing, Respondent admitted that:

- DE was a special education student in the guided study hall class that he student taught at Carlisle High School from March 10 through May 1, 2015;
- he sent Snapchat messages to DE using the name of "Michael\_S09" beginning around May 3 or May 4 and sent the Snapchat messages that are included in State Exhibit 23, although those messages are out of order;
- he did not initially identify himself in his Snapchat messages to DE and when DE guessed who he was, he told her not to say his name on Snapchat;
- he asked DE to delete his Snapchat messages;
- he picked DE up at the Carlisle pool between 11:15 and 11:30 p.m. on May 5, 2015 and drove her to his home in Norwalk, which took about 15-20 minutes;
- he prepared an alcoholic drink for himself, which he described as "a little less than a shot of spiced rum" with root beer, while DE was present in his home; and
- he and DE talked and played video games and then he took her back to Carlisle and dropped her off at the pool.

Respondent further testified that DE had sought his "counsel and advice" during the time he was student teaching at Carlisle and that she had confided in him about some difficult family issues. Respondent testified that he had referred DE to the school counselor, and he denied that he ever saw or communicated with DE outside of the school day while he was still student teaching. (Respondent testimony)

Respondent explained that Snapchat messages automatically disappear unless one of the senders "taps" on the message to retain it. Respondent testified that he deletes most of his texts and that he would ask anyone to delete his Snapchat messages because keeping the messages would feel "like an invasion of privacy."

Respondent stated that he decided to contact DE on Snapchat because he felt "very empathetic" towards her and he wondered how she was doing. When asked what prompted him to contact DE so late in the evening on May 5, 2015, Respondent replied that he felt really connected to DE and felt that he had an obligation to continue in a supportive role to her. He further testified that he and DE had "similar childhoods," and that he understood and was sympathetic to what she was going through. Respondent testified that he believes that his empathy for the student led him to cross a boundary that he would never cross with any other student. (Respondent testimony)

Respondent claimed that in a previous Snapchat message to him, which was not part of Exhibit 23, it was DE who suggested that they should "hang out." Respondent testified that when he "demurred," DE told him that she would wander around Carlisle and find someone to "hang out with." Respondent stated that this statement concerned him so he agreed to meet with DE. Respondent also testified that DE had "ample opportunity" to tell him that she did not want to meet him. (Respondent testimony)

Respondent testified that after he and DE arrived at his home they talked about school and her family issues, that each of them texted a couple of friends, and that they played video games. Respondent denies that he took any photos of DE that evening or that he has any photos of DE on his phone. Respondent also denied that he made or offered DE an alcoholic drink, and he denied that he ever took his own alcoholic drink of spiced rum and root beer into the living room. Respondent testified that he had not taken more than a sip of his drink before DE asked him to take her home. Respondent told DE that she should have told him before "I poured this drink for myself." Respondent stated that his concern was that he wanted to be able to drive DE home safely and not be pulled over. Respondent testified that he poured his drink into the sink and drove DE home. (Respondent testimony)

Respondent denies having any romantic feelings towards DE and testified that it never crossed his mind to have a romantic or sexual relationship with her. Respondent testified that he did not realize that it was inappropriate to have DE come to his home until he reflected on it the following morning and that he realized a little too late that DE may have had a crush on him. Respondent testified that he did not have a "really social childhood" and that he does not always adequately receive signals from the other gender. (Respondent testimony)

Respondent has not done any substitute teaching or any student teaching since May 1, 2015. Respondent has had difficulty obtaining and maintaining employment because he is on probation, and he has felt unable to request references from the school districts where he has worked as a student teacher. Prior to the incident with DE, Respondent had been recommended for a full-time teaching position for the 2015-2016 school year, but that hiring recommendation has since been withdrawn. (Respondent testimony)

On December 14, 2015, Respondent completed the Iowa State Education Association's two day Ethics for Educators course. Respondent testified that:

- the ISEA course explained strategies to employ to avoid ethical pitfalls in the classroom;
- he learned how to make better decisions and set clear boundaries with students, including avoiding conversations with students on social media;
- by the end of the course, he realized it was clear that he should not have contacted DE at all;
- this was new information that he had not learned during his prior education and training; and
- he also learned that he should have been more honest and forthcoming about what happened with DE and that it was his fault because he should have set appropriate boundaries.

Respondent has not had any individual counseling because he does not have the insurance or financial resources to pay for it at this time. (Respondent testimony; Respondent Exhibit C)

## CONCLUSIONS OF LAW

*Relevant Provisions of the Iowa Code and Iowa Administrative Code.* The legislature created the Iowa Board of Educational Examiners with the exclusive authority to develop a code of professional rights and responsibilities, practice, and ethics.<sup>2</sup> The Board has promulgated its Code of Professional Conduct and Ethics at 282 IAC chapter 25. 282 IAC 25.3 provides in relevant part:

282-25.3(272) Standards of professional conduct and ethics. Licensees are required to abide by all federal, state, and local laws applicable to the fulfillment of professional obligations. Violation

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<sup>2</sup> Iowa Code section 272.2(1)(2015).

of federal, state, or local laws in the fulfillment of professional obligations constitutes unprofessional and unethical conduct which can result in disciplinary action by the board. In addition, it is hereby deemed unprofessional and unethical for any licensee to violate any of the following standards of professional conduct and ethics:

*25.3(1) Standard I- conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse.*

Violation of this standard includes:

...

b. *Criminal convictions.* The commission of or conviction for a criminal offense as defined by Iowa law provided that the offense is relevant to or affects teaching or administrative performance.

...

e. *Student abuse.* Licensees shall maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitutes unethical conduct without regard to the existence of a criminal charge or conviction:

(4) Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student;...

(5) Furnishing alcohol ...to any student or knowingly allowing a student to consume alcohol...in the presence of the licensee;...

*Count I-Commission of or Conviction for a Criminal Offense Relating to or Affecting Teaching Performance*

The undisputed evidence established that Respondent entered a guilty plea to the simple misdemeanor of Contributing to the Delinquency of a Minor, in violation of Iowa Code section 709A.1(3). On July 17, 2015, Respondent was granted a deferred judgment and was placed on supervised probation for a period of one year. Respondent was also required to complete an Ethics course sponsored by the Iowa State Education Association (ISEA) or the Area Education Agency. In exchange for Respondent's guilty plea, the criminal charge of Furnishing Alcohol to a Minor was dismissed.

*Significance of deferred judgment.* A deferred judgment is a sentencing option allowing the sentencing court to defer both the adjudication of guilt and the imposition of a sentence while retaining the power to pronounce judgment and impose sentence, subject to the defendant's compliance with conditions set by

the court as a requirement of the deferred judgement.<sup>3</sup> Upon the satisfactory completion of the conditions established by the court and fulfillment of the terms of probation, the court's criminal record with reference to the deferred judgment is expunged.<sup>4</sup>

The fact that Respondent was granted a deferred judgment does not limit the Board's authority to impose discipline. 282 IAC 25.3(1)"b" authorizes the Board to discipline licensees for the "commission of or conviction for" a criminal offense as defined by Iowa law provided that the offense is relevant to or affects teaching or administrative performance. (emphasis supplied) Respondent's entry of a guilty plea and the other evidence in this record is more than sufficient to support the conclusion that he has committed the criminal offense of Contributing to the Delinquency of a Minor.

In addition, the Iowa Supreme Court has held that when a statute is aimed at protecting the public, use of the term "conviction" should be interpreted broadly to include a deferred judgment and that when a statute is aimed at punishing a person, the term "conviction" should be interpreted narrowly.<sup>5</sup> Iowa Code chapter 272.2(14)(a) and 282 IAC 25.3(1)"b" require the Board to deny or revoke a license for certain "disqualifying convictions" and further authorize the Board to deny licenses or to discipline licensees for other criminal convictions that are not disqualifying but that are relevant to or affect teaching or administrative performance. The primary purpose of these provisions is to protect students, not to punish the applicant or licensee. For this reason, the word "conviction," as it appears in Iowa Code section 272.2(14)(a) and 282 IAC 25.3(1)"b," must be broadly interpreted to include those cases where the sentencing court granted a deferred judgment following the entry of a guilty plea or guilty verdict.

The Board may deny a license or discipline a licensee for the commission of or conviction for a criminal offense that is not considered "disqualifying" under Iowa Code section 272.2(14)(a) as long as the conviction is relevant to or affects teaching or administrative performance.<sup>6</sup> Contributing to the Delinquency of a Minor is not one of the listed "disqualifying" offenses. Therefore, the Board must consider the following factors in determining whether to impose discipline for Respondent's commission of this offense:

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<sup>3</sup> Iowa Code section 907.1(2015).

<sup>4</sup> Iowa Code section 907.9(4)(b)(2015).

<sup>5</sup> *Schilling v. Iowa Department of Transportation*, 646 N.W.2d 69, 71-73 (Iowa 2002).

<sup>6</sup> See 282 Iowa Administrative Code (IAC) 25.3(1)(b).

1. The nature and seriousness of the crime in relation to the position sought;
2. The time elapsed since the crime was committed;
3. The degree of rehabilitation which has taken place since the crime was committed;
4. The likelihood that the person will commit the same crime again;
5. The number of criminal convictions committed; and
6. Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.<sup>7</sup>

*1. Nature and seriousness of the crime in relation to the position sought.* Respondent's conviction for Contributing to the Delinquency of a Minor, in violation of Iowa Code section 709A.1(3), is clearly relevant to his licensure as a substitute teacher and to any future licensure as a teacher. Respondent has admitted that he picked up a 14 year old female at approximately 11:30 p.m. on May 5, 2015, without her parents' knowledge or permission. Respondent, who was 25 years old at the time, transported the 14 year old to his residence in Norwalk and did not return her to Carlisle until sometime after 1:30 a.m. Respondent had been the student teacher for this 14 year old special education student just days before this incident occurred. Although the crime is classified as a simple misdemeanor, the specific circumstances of the crime make it a serious matter that is directly related to Respondent's substitute authorization and any future licensure as a teacher.

*2. The time elapsed since the crime was committed.* The crime is recent and occurred less than a year ago on May 5, 2015. Respondent will be on supervised probation for this offense until July 17, 2016.

*3. The degree of rehabilitation which has taken place since the crime was committed.* Respondent is currently on probation for this offense. The sentencing court imposed a one year No Contact Order and required Respondent to attend an Ethics class through the Iowa State Education Association (ISEA) or the Area Education Association. Respondent attended the two day ISEA Ethics course on October 31 and November 21, 2015. Respondent testified that after completing the ethics course he now realizes that it was a mistake for him to begin communicating with DE via Snapchat and that it was inappropriate for him to pick up DE late at night and transport her to his home. Respondent's

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<sup>7</sup> 282 IAC 25.3(1)(b)(2).

testimony also included many self-serving statements and rationalizations for his actions on May 5, 2015, including his testimony that DE was the one who initially suggested that they should "hang out," and that his decision to pick DE up that night and take her to his home was solely motivated by his concern and empathy for DE. Based on this record it certainly does not appear that Respondent has been fully rehabilitated.

4. *The likelihood that the person will commit the same crime again.* Based on this record it is unclear whether Respondent is sincerely remorseful or whether he is likely to commit the same crime again. Although Respondent has had some severe consequences for his behavior, it does not appear that he has fully and sincerely accepted responsibility for his actions or for the potential harm he may have caused DE.

5. *The number of criminal convictions committed.* Respondent has only had one criminal conviction for Contributing to the Delinquency of a Minor. He has no known prior criminal record.

6. *Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.* The fact that the minor was a 14 year old special education student for whom Respondent had recently served as a student teacher was certainly an aggravating factor in this case. The preponderance of the evidence in this record establishes a violation of 282 IAC 25.3(1)(b)(2) (conviction of a criminal offense which relates to or affects teaching performance.) Respondent should be disciplined for this violation.

*Count II-Soliciting, Encouraging, or Consummating a Romantic or Otherwise Inappropriate Relationship with a Student*

The preponderance of the evidence established that Respondent solicited and encouraged an inappropriate personal relationship with a 14 year old special education student, in violation of 282 IAC 25.3(1)(e)(4). It is irrelevant that Respondent's student teaching assignment involving DE ended a few days before he initiated the Snapchat messages with her. The evidence in the record clearly established that Respondent used his position as DE's student teacher to initiate a personal relationship with her and to manipulate her into meeting with him late at night. Even if DE had previously suggested that they "hang out," as claimed by Respondent, it would not diminish Respondent's culpability for what transpired on May 5, 2015. As the 25 year old adult who had been DE's student teacher just days before, it was Respondent's responsibility to maintain

appropriate professional boundaries with DE. Moreover, the Snapchat messages fully corroborated DE's claim that it was Respondent who persuaded her to meet him that night.

This was not a close case. In his Snapchat messages to DE, Respondent repeatedly called DE "beautiful." Moreover, the wording and tone of his messages are completely inconsistent with Respondent's self-serving claim that he was only trying to provide support for DE concerning her family issues. It is clear that Respondent fully understood that he could get into trouble if anyone found out about his contacts with DE and that this was why he urged DE to delete their messages. No reasonable educator could believe that it was appropriate or within professional bounds for the educator to persuade a 14 year old special education student to:

- sneak out of her parent's home at 11:30 at night;
- meet the educator at a public pool;
- allow the educator to drive the student to the educator's home in another town; and
- spend time alone with the educator in his home.

Moreover, Respondent admitted that he prepared an alcoholic beverage for himself and that he had planned to consume that beverage before driving DE home. These are not the actions of a concerned educator who is trying to provide support and guidance to a troubled student. Respondent treated DE as though she was an adult peer. Respondent initiated and encouraged DE to have an inappropriately personal relationship with him.

*Count III- Furnishing Alcohol to a Student or Knowingly Allowing a Student to Consume Alcohol in the Presence of the Licensee*

The preponderance of credible evidence in this record supports the conclusion that Respondent provided an alcoholic beverage to DE while she was in his home in the late night hours of May 5, 2015 and/or the early morning hours of May 6, 2015. DE made substantially consistent statements to the school district's Dean of Students and to Carlisle Police Detective Moore. In both interviews, DE indicated that Respondent had made an alcoholic beverage for her and encouraged her to try it. DE also provided a signed written statement, which included her detailed description of how Respondent prepared a drink of vodka for himself and made one for her too, telling her to "take a drink its good." (State Exhibit 25) In her statements to Detective Moore, DE stated that she believed that



the drink was vodka mixed with "sprite or 7-up" and possibly root beer. (State Exhibit 16).

Respondent admitted making himself an alcoholic beverage of spiced rum mixed with root beer that night but denied that he offered an alcoholic beverage to DE.

DE's hearsay statements that Respondent gave her alcohol were more credible and plausible than Respondent's testimony at hearing. The fact that DE did not tell her friends about the alcohol does not diminish the credibility of the statements that she provided to Jordan Nelson and to Detective Moore that same day. There is no indication in this record that DE had any animosity toward Respondent or that she was motivated to exaggerate Respondent's actions in order to get him into trouble. Although DE had confided in her friends about meeting Respondent late at night and going to his home, she did not report Respondent's actions to anyone in authority, and she told her friends not to tell anyone.

DE's statement that Respondent also offered her an alcoholic drink and encouraged her to try it was entirely plausible, given that Respondent had encouraged DE to sneak out of her home late at night, had transported her to his residence, and had prepared himself an alcoholic drink, even though he knew he would be responsible for driving DE back to Carlisle. Moreover, Respondent was highly motivated to deny that he provided an alcoholic beverage to DE, particularly when he was facing criminal charges for providing alcohol to a minor and when he was facing possible expulsion from his graduate program and discipline from the Board.

### *Sanction*

The Board has the authority to impose the following disciplinary sanctions for violations of its Code of Professional Conduct and Ethics:

1. Revoke a practitioner's license, certificate or authorization.
2. Suspend a practitioner's license, certificate or authorization until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, a practitioner from engaging in specified practices, methods, or acts.
4. Require additional education or training.

5. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
6. Issue a public letter of reprimand.
7. Order any other resolution appropriate to the circumstances of the case.<sup>8</sup>

The state has recommended revocation of Respondent's substitute authorization and has further recommended that Respondent should be permanently barred from applying for a teaching license in the future. Respondent recommends that the sanction should be limited to a one year period of suspension, made retroactive to May 5, 2015.

An appropriate sanction should provide a consequence that is proportionate to the violation, provides deterrence for other licensees from committing similar violations, and is sufficient to protect the health, safety, and welfare of students. Under the Board's rules, revocation is a permanent loss of license, with no future opportunity for reinstatement.<sup>9</sup>

Both parties have submitted prior Board orders that they believe provide relevant precedent for an appropriate sanction in this case. Some of these prior orders were settlement agreements that do not include fact findings. Of the prior Board Orders cited by the parties, the case that presents the most analogous facts and most analogous findings of violation was *In the Matter of Troy Elliot*, Case No. 12-66, Proposed Decision issued 1/14/14. (State Exhibit 31)<sup>10</sup> In the *Eliot* case, the licensee had invited three female students (ages 16, 15, and 16) to his home for dinner. The licensee had been tutoring the students while on leave from his teaching position with his employing school district. The decision in Case No. 12-66 found that the licensee had played video games and danced with all of the students and had allowed at least one student to drink wine. The decision further found that Respondent's relationship with the students violated the line of propriety and constituted an inappropriate relationship, in violation of 282 IAC 25.3(1)(e)(4). The decision also found that the licensee had been convicted of a criminal offense (providing alcohol to underage persons) and that he allowed at least one student to consume alcohol in his presence, in violation of 282 IAC 25.3(1)(b) and 25.3(1)(e)(5). The Board indefinitely suspended the licensee's

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<sup>8</sup> 282 IAC 11.33.

<sup>9</sup> 282 IAC 11.34.

<sup>10</sup> The Board's website shows that this proposed decision was adopted as the Board's final order on February 13, 2014. See <http://www.boee.iowa.gov/board/orders/2012/12-66.pdf>.

teaching and coaching licenses with no possibility of reinstatement for a minimum period of three years. The Board's decision further stated that prior to any reinstatement, the licensee would be required to show that: 1) the basis for the license suspensions no longer exists and that it is in the public interest for his licenses to be reinstated; 2) he has successfully completed Board approved ethics training; and 3) he has successfully completed a Board-approved professional boundaries counseling program.

A similar sanction is warranted in this case. Professional boundary violations by educators pose a significant risk to the physical and emotional welfare of students. The facts of this case raise very serious concerns about Respondent's understanding and acceptance of the appropriate professional boundaries that must be maintained between a teacher and a student. Nevertheless, Respondent is only 25 years old, and it is appropriate to provide an opportunity for him to seek reinstatement of his substitute authorization in the future, provided he has complied with the terms established in this Decision and Order. Although Respondent has already completed the ISEA Ethics for Educators course that is typically required by the Board, it does not appear that the course was of sufficient depth and length to address and resolve the serious ethical concerns presented by this case.

### ORDER

IT IS THEREFORE ORDERED that the substitute authorization (Folder #1011145) issued to Respondent Michael Suplee is hereby INDEFINITELY SUSPENDED, with no possibility of reinstatement for a minimum period of three (3) years from the date that this proposed decision becomes a final decision.

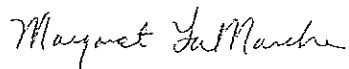
IT IS FURTHER ORDERED that Respondent shall not be granted a permanent teaching license while his substitute authorization is indefinitely suspended.

IT IS FURTHER ORDERED that prior to any reinstatement of his substitute authorization and prior to the issuance of a teaching license, Respondent must undergo a mental health evaluation that includes an assessment of his ability to establish and maintain appropriate teacher-student boundaries. The evaluation shall be performed by a licensed professional selected by Respondent, with prior approval of the Board's Executive Director. Respondent shall provide the licensed professional a copy of the Board's Final Order prior to the mental health evaluation. Respondent shall ensure that the Board receives a copy of the evaluation report from the approved licensed professional within thirty (30) days

of the completion of the mental health evaluation. Respondent shall comply with any recommendations for treatment and/or training made as a result of the evaluation and must successfully complete any recommended professional boundaries counseling. Respondent is responsible for all costs of the evaluation and the costs of any treatment, training, and/or counseling.

IT IS FURTHER ORDERED that in order to obtain reinstatement, Respondent must make application to the Board and must demonstrate that the basis for the indefinite suspension of his substitute authorization no longer exists and that it is in the public interest for his license to be reinstated. *See* 282 IAC 11.34.

Dated this 6th day of April, 2016.



Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Administrative Hearings Division  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

cc: Renner Walker, Assistant Attorney General, Hoover Building, 2<sup>nd</sup> Floor  
(LOCAL)  
Becky S. Knutson, Davis, Brown, Koehn, Shors & Roberts, P.C., 215 10<sup>th</sup>  
Street, Suite 1300, Des Moines, Iowa 50309 (CERTIFIED)  
Duane T. Magee, Executive Director Iowa Board of Educational Examiners  
(LOCAL)

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS  
OF THE STATE OF IOWA**

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In the matter of	)	Case No. 15-88
	)	Folder No. 1011145
<b>MICHAEL D. SUPLEE,</b>	)	
	)	<b>NOTICE OF HEARING</b>
Respondent.	)	<b>AND STATEMENT OF CHARGES</b>

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**YOU ARE HEREBY NOTIFIED** that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing will be held on Monday, December 21, 2015, before Administrative Law Judge Margaret LaMarche, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9<sup>th</sup> Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.
2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.
3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code (IAC) chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 IAC rule 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the request for telephonic testimony must be served on the Board and all parties. Any

resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 IAC rule 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Renner K. Walker  
Assistant Attorney General  
Iowa Department of Justice  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319  
Telephone (515) 281-7175

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Duane T. Magee, the Board's Executive Director, at (515) 281-5849 or to Assistant Attorney General Walker at (515) 281-7175.

## **B. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

7. Respondent is charged with commission of or conviction for a criminal offense as defined by Iowa law related to teaching or coaching performance, in violation of 282 Iowa Administrative Code rule 25.3(1)(b)(2).

### **Count II**

8. Respondent is charged with soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student, in violation of 282 Iowa Administrative Code rule 25.3(1)(e)(4).

### **Count III**

9. Respondent is charged with furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee, in violation of 282 Iowa Administrative Code rule 25.3(1)(e)(5).

### C. JURISDICTION AND LEGAL AUTHORITY

10. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 IAC chapter 11.

### D. FACTUAL CIRCUMSTANCES

11. Respondent holds a SUBSTITUTE AUTHORIZATION (FOLDER # 1011145). Respondent's authorization is current and will next expire on May 20, 2016.

12. During all material events of this case, Respondent was a second semester student teacher, teaching special education, with the Carlisle Community School District.

13. On May 21, 2015, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On October 9, 2015, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

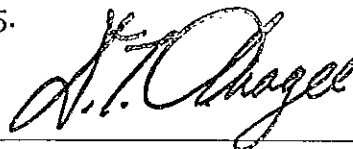
14. Respondent pled guilty on or about July 17, 2015, to one count of contributing to the delinquency of a minor in violation of Iowa Code section 709A.1(1). The minor in question was a student at Carlisle High School.

15. Respondent had inappropriately text messaged the student using the Snapchat application for his cell phone. During the conversation, Respondent repeatedly called the student "beautiful." Respondent arranged to pick up the student late at night from near her house and to return her to his home in Norwalk. Once at his house, he attempted to take photographs of the student and offered her an alcoholic mixed drink.

### E. SETTLEMENT

16. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 IAC rule 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 14<sup>th</sup> day of October, 2015.



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Duane T. Magee, Executive Director  
Iowa Board of Educational Examiners

Copies to:

Michael D. Suplee (first-class and restricted certified mail)  
RESPONDENT

Becky S. Knutson (electronic mail)  
ATTORNEY FOR RESPONDENT

Renner K. Walker (electronic mail)  
ATTORNEY FOR STATE